

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 5527 OF 2016

Vishnu s/o. Dagduba Ekhye .. Applicant
Age. 30 years, Occ. Agriculture,
R/o. Kausadi, Tq. Jintur,
Dist. Parbhani.

Versus

The State of Maharashtra .. Respondent

**WITH
CRIMINAL APPLICATION NO. 5451 OF 2016**

Deepak s/o. Madhavrao More .. Applicant
Age. 35 years, Occ. Business,
R/o. Kausadi, Tq. Jintur,
Dist. Parbhani.

Versus

The State of Maharashtra .. Respondent

Mr.Nilesh S. Ghanekar, Advocate for applicants.
Mr.S.J. Salgare, APP for respondent/State.

**CORAM : A.M. BADAR,J.
DATED : 13.10.2016**

P.C. :-

1. Applicants – Vishnu Ekhye and Deepak More, by these applications are seeking their release on bail in Crime No.27 of 2016 registered with Gangapur Police Station, Dist. Aurangabad, for offences punishable under sections 302, 364, 120-B, 201 read with section 34 of the Indian Penal Code and under section 3/25 of the Indian Arms Act, after filing of charge-sheet.

2. Heard learned Counsel appearing for applicants/accused. By drawing my attention to the charge-sheet, learned Counsel argued that role attributed to applicant – Vishnu is that of destroying evidence of crime, despite knowing that offence of murder has been committed. Learned Counsel further argued that the role attributed to applicant – Deepak is his inaction in prevention of the crime in question. Learned Counsel further argued that though applicant Deepak More had earlier applied for bail and that application was withdrawn, because of subsequent events as other co-accused with similar role have been released by this Court, he is again moving the application.

3. Learned A.P.P. opposed the applications by contending that the crime in question is serious and applicants are not entitled for bail.

4. Perused the charge-sheet. According to prosecution case, Anil Sharma (since deceased) was friend of accused No.1 – Santosh Patil More. Applicant – Deepak More is brother of accused No.1 – Santosh Patil More. Deceased Anil Sharma had given an amount of Rs.20 lakhs to accused No.1 – Santosh Patil More for construction of a house. Deceased Anil Sharma was insisting for refund of that amount. This was the cause for the incident of murder of Anil Sharma. The prosecution also averred that Anil Sharma was having illicit relation with wife of accused No.1 – Santosh Patil More. Therefore, conspiracy was hatched by accused No.1 – Santosh Patil More with accused No.2 – Santosh @ Babu Jagtap and others. In execution of the plan, Anil Sharma was brought to Hotel Nakshatra, owned by accused No.1 – Santosh Patil More on 17.01.2016. There, according to prosecution case, Anil Sharma was killed by firing three bullets in his head by accused No.1 – Santosh Patil More.

5. Perusal of statements of witnesses, particularly, Balasaheb Harale goes to show that main accused Santosh Patil More took a revolver and committed murder of Anil Sharma by firing bullets in his head.

6. As per the charge-sheet, after commission of

murder of Anil Sharma, applicant – Vishnu Ekhye, who is an employee of main accused Santosh Patil More, had cut clothes of Anil Sharma. So far as applicant – Deepak More is concerned, according to prosecution case, though he is brother of main accused Santosh Patil More, applicant – Deepak has not taken any efforts to prevent Santosh Patil More from committing the crime and has not reported the same to Police. It is further alleged that applicant – Deepak had fled from the spot with important witnesses in order to prevent them from reporting the case to police.

7. Statements of witnesses show that after the incident, applicant – Deepak More along with his friend fled from the spot by his car.

8. Perusal of charge-sheet, prima facie, does not disclose that both applicants were part of the conspiracy to kill Anil Sharma. Applicant – Vishnu Ekhye had cut clothes of the dead body after commission of crime in question; whereas applicant – Deepak More's post event conduct is fleeing from the spot. As charge-sheet does not, prima facie, disclose their involvement in commission of offence of murder of Anil Sharma, there is no reason to refuse bail to them. Therefore, the order :-

O R D E R

i) Applications are allowed.

ii) Applicants/accused - Vishnu s/o. Dagduba Ekhye and Deepak s/o. Madhavrao More, in Crime No.27 of 2016 registered with Gangapur Police Station, Dist. Aurangabad, for offences punishable under sections 302, 364, 120-B, 201 read with section 34 of the Indian Penal Code and under section 3/25 of the Indian Arms Act, be released on bail on executing P.R.Bond of Rs. 20,000/- [Rupees Twenty Thousand] and on furnishing surety in the like amount, by each of them.

(iii)As a condition of this Order, applicants shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.

(iv) Applicants shall not tamper the evidence of the prosecution.

(v) Applicant to co-operate the trial Court in the expeditious disposal of trial against them.

[A.M. BADAR, J.]